

Rule 4-206. Exhibits.

Intent:

To establish a uniform procedure for the receipt, maintenance and release of exhibits.

Applicability:

This rule shall apply to all trial court proceedings in courts of record and not of record, except small claims court.

Statement of the Rule:

(1) Marking exhibits.

(1)(A) All exhibits offered as evidence shall be marked with a label or tag, which shall contain, at a minimum, the exhibit number or alpha identification, the case number, the date received, and the initials of the clerk who received the exhibit.

(1)(B) The clerk shall designate the source of the exhibit by the letter "P" if it is received from plaintiff and "D" if it is received from defendant. In cases with multiple parties, the label shall further identify the parties, e.g. 1st D is the first named defendant in the pleadings, 3rd D is the third party defendant.

(1)(C) The clerk ~~receiving the evidence~~ shall secure the label on the item and shall affix more than one identical label when necessary.

(1)(D) The court may order exhibits to be marked in advance of the date and time of trial or other hearing.

(2) Exhibit ~~list custody and tracking~~.

~~(2)(A) The clerk who received the exhibits at trial or other hearing shall maintain an exhibit list in triplicate which shall contain a list of all exhibits marked. The list shall include:~~

~~(2)(A)(i) The label identification, e.g. P-1 or D-1.~~

~~(2)(A)(ii) The status of the exhibit, whether offered, received, refused, withdrawn or original substituted.~~

~~(2)(A)(iii) The description of the exhibit.~~

~~(2)(A)(iv) The date received.~~

~~(2)(B) If the list is a multiple page list, the pages should be numbered to show the page number as it relates to the total number of pages, e.g. 1 of 3, 2 of 3 and 3 of 3.~~

~~(2)(C) The original page of the triplicate exhibit list shall be placed in the case file. The second copy shall serve as an inventory sheet at the time of acceptance into the evidence holding~~

~~room and may serve as an evidence or exhibit log and exhibit management document. The third copy shall be retained by the clerk of the court in a record other than the case file and shall serve as an exhibit custody tracking record as more specifically defined in paragraph (7) of this rule.~~

~~(3) Security of exhibits during pendency of trial of proceedings.~~

~~(3)(A) Each court shall designate a locked facility for securing exhibits during the pendency of a trial or hearing and during recesses. The locked facility shall only be accessible to authorized court personnel.~~

~~(2)(A) The exhibit custody tracking record means the CORIS computer system or a form approved by the Administrative Office of the Courts. If an approved form is used as the exhibit custody tracking record, it shall be placed in the case file.~~

~~(2)(B) Each person with custody of an exhibit shall identify herself or himself in the exhibit custody tracking record and record changes in the status of the exhibit contemporaneous with the event.~~

~~(3)(B)-(2)(C) Prior to daily adjournment, the clerk, under the direction of the court, shall conduct a roll call of exhibits to ensure that compare the exhibit custody tracking record with the exhibits are in the custody of the clerk.~~

~~(3)(C) Except as set out in this paragraph, all exhibits offered, either received or refused, shall be retained by the clerk who shall be responsible for the custody of the exhibits. All exhibits not suitable for filing and transmission to the appellate court as part of a record on appeal shall be retained in the custody of the party offering them, subject to the orders of the court. Such exhibits shall include, but not be limited to, the following types of bulky or sensitive exhibits: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and documents or physical exhibits of unusual bulk or weight.~~

~~(4) Packaging of exhibits. The courtroom clerk having custody of the exhibits shall keep the exhibits received at trial in one a container whenever practicable. The container shall be numbered and shall identify the case name, and number and date submitted to the exhibit manager for retention. The exhibit manager shall ensure the availability of a supply of containers for housing exhibits of varying sizes and descriptions.~~

~~(5) Exhibit storage facility standards. (2)(D) Each court location shall provide a locked facility for storing exhibits received by the court. Responsibility The Clerk of the Court shall~~

appoint an exhibit manager with responsibility for the security, maintenance and disposition of exhibits ~~shall be fixed with an exhibit manager appointed by the clerk of the court. The exhibit manager shall mark the exhibit holding facility into designated sections or otherwise identify the location by drawer number, bin number, box number, etc. to facilitate the logging of exhibits on the inventory log and to facilitate locating the exhibits.~~ Access to the exhibits ~~stored in the~~ storage area ~~during the pendency of a trial or other proceeding,~~ by anyone, other than the exhibit manager and the ~~courtroom~~-clerk, is prohibited without a court order.

~~(6) Inventory log of exhibits.~~

~~(6)(A) At (2)(E) Unless otherwise ordered by the court, at the conclusion of the trial or proceeding, the courtroom~~ the clerk shall release to the party offering them all exhibits not suitable for filing and transmission to the appellate court as part of a record on appeal. Such exhibits include, but are not be limited to: narcotics and other controlled substances, firearms, ammunition, explosive devices, jewelry, liquor, poisonous or dangerous chemicals, money or articles of high monetary value, counterfeit money, and exhibits of unusual bulk or weight. The clerk having custody of the exhibits shall transfer the remaining exhibits to the exhibit-holding facility manager. The exhibits shall be received by the person in charge of exhibit management. The exhibit manager shall maintain an inventory log of exhibits and shall inventory the exhibits from the exhibit list and shall receipt them. The receipt shall be filed with the exhibit tracking record maintained by the clerk of the court. The exhibit manager shall record receipt and location of the exhibits.

~~(6)(B) The log of exhibits shall show the date logged into the evidence room, the storage location,~~ (2)(F) The exhibit manager shall record the date of release of exhibits; and to whom released, ~~and the date destroyed, if applicable. The second copy of the exhibit list may serve as the inventory log.~~

~~(7) Exhibit custody tracking record. The clerk of the court shall maintain an exhibit custody tracking record for the purposes of tracking the custody of the exhibits from the time received by the in-court clerk through appeals or new trials, if any, to final disposition of the exhibits. The tracking record shall be maintained in a place other than the case file and shall contain receipts for exhibits for the purposes of documenting the chain of custody. When cases are appealed and the appellate court requests that the exhibits be forwarded, the clerk of court shall obtain a~~

~~receipt of exhibits from the appellate court, which receipt shall be retained with the file. A copy of the receipt may be retained with the exhibit custody tracking record.~~

~~(8)(3)~~ Withdrawal of exhibits.

~~(8)(A)(3)(A)~~ If the time for filing an appeal or requesting a rehearing or new trial has not expired, exhibits ~~shall~~ may be withdrawn only upon ~~stipulation of counsel and~~ written order of the court. ~~Persons withdrawing exhibits shall be required to sign a receipt for them which shall be retained with the file. A copy of the receipt may be retained with the exhibit custody tracking record.~~

~~(8)(B)(3)(B)~~ If the time for filing appeals or requesting a rehearing or new trial has expired, exhibits may be withdrawn by ~~stipulation of counsel or the~~ filing of a Notice of Intent to Withdraw Exhibits.

~~(3)(C)~~ The clerk or exhibit manager shall record withdrawal of the exhibits.

~~(9)(4)~~ Disposal ~~or destruction~~ of exhibits. After three months have expired from final disposition of the case and no appeals have been filed or requests for new trials or rehearing have been made, the clerk shall ~~send a Notice of Intent to Dispose of Exhibits to counsel. Unless the exhibits are withdrawn by counsel or unless a written objection is filed within 30 days from the date of notice, the clerk shall~~ dispose of the exhibits as follows:

~~(9)(A)~~ Contraband shall be given to the law enforcement agency which confiscated it, accompanied by an order for destruction issued by the court directing the agency to destroy the contraband and to furnish the court with a certificate of destruction. The certificate shall be kept ~~with the exhibit custody tracking record.~~

~~(9)(B)~~ Weapons shall be given to the sheriff or law enforcement agency which confiscated them to be disposed of in accordance with Utah Code Ann. § 76-10-525. The agency receiving the weapons shall furnish the court with a receipt to be maintained with the exhibit custody tracking record.

~~(9)(C)(4)(A)~~ Property having value shall be returned to its owner or, if unclaimed, shall be given to the sheriff of the county or other law enforcement agency to be sold in accordance with Utah Code ~~Ann. §~~ Section 77-24-4. The agency receiving the property shall furnish the court with a receipt ~~to be that may be~~ maintained with the exhibit custody tracking record or noted in the computer record.

123 ~~(9)(D)~~(4)(B) Property having no value shall be destroyed by the clerk of the court who shall
124 furnish the court with a certificate of destruction ~~which shall be~~ that may be maintained with the
125 exhibit custody tracking record or noted in the computer record.

126 (4)(C) The exhibit manager shall record disposition of the exhibits.
127